

Appl. No. 10/773,927
AMENDMENT AFTER FINAL OFFICE ACTION PURSUANT TO 37 CFR 1.116
December 23, 2005

REMARKS

The instant Amendment After Final Office Action pursuant to 37 CFR 1.116 is filed to place this Reply on file within two months of the mailing date of the outstanding Final Office Action to ensure that any Advisory Action not mailed until after the three-month shortened statutory period, will then cause the shortened statutory period to expire on the date the Advisory action is mailed in accordance with the Rules. In view of the November 1, 2005 filing of the Communication RE Final Office Action dated October 26, 2005, telephone communications with the Examiner, and in view of the upcoming two month deadline for reply, this Amendment After Final Office Action pursuant to 37 CFR 1.116 is filed concerning Claims 1-16 and 18-21 pending, and claims 1, 2, 8, 12 and 15 which stand rejected under 35 USC §103(a) as being unpatentable over Hornsby et al., U.S. Patent No. 5,782,669 in view of Eppley U.S. Patent No. 6,099,379. Claim 17 has been cancelled. Claim 16 is indicated as allowed. Claim 21 was added previously.

Inasmuch as the entry of Reply of December 24, 2004 does not appear to be reflected, the amendments herein above and particularly INDEPENDENT CLAIMS 1 AND 12 (AND NEW CLAIM 21) WERE AMENDED SPECIFICALLY TO RECITE: I.E., THE PLUSH ENGAGING MEMBER INTEGRAL WITH THE EYE WITH THE PLUSH AFFIXED TO THE EYE FOR MOVEMENT OF THE PLUSH WITH THE EYE ASSEMBLY.

Whereas Hornsby's plush moves over the eye, Applicant's recited structure on the other hand has its plush-engaging member integral with the eye with the plush affixed to the eye for movement of the plush with the eye assembly (cover-engaging member in claim 12). As discussed on pages 9 and 10 of Applicant's Specification, for each spherical (eye) member of the eye assembly, a portion of the plush cover (e.g. the flap 320) is inserted between the shaped engaging member and the border member. As shown in Fig. 11, the crook of the flap 320 (i.e., the point where the first and second branches fork) engages the shaped member and the first branch 330 is stretched across with the free end of the first branch 330 affixed by sliding onto retaining post 16. Hornsby et al.,

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itself or in combination with Eppley neither teaches nor suggests attaching to the eye itself for movement with the eye.

The underlined recitations in Independent Claims 1, 12, and 21 below distinguish over the prior art of record:

Claim 1. An artificial eye assembly for an animated plush toy operative to animate a portion of plush contiguous to the eye assembly comprising:

one or more transparent, spherical members having a convex surface and a concave surface;

at least one three-dimensional border member partially surrounding and unitary with said one or more transparent, spherical members; and

a plush-engaging member integral with said one or more transparent, spherical members with the plush affixed thereto for movement of the plush with the eye assembly. (emphasis added).

Claim 12. An artificial eye for a toy wherein the toy comprises a body and a flexible body cover, the eye operative to animate a portion of body cover contiguous to the eye and comprising:

a transparent, spherical member having a convex surface and a concave surface;

at least one three-dimensional border member partially surrounding and unitary with the spherical member; and

a cover-engaging member integral with the spherical member with the flexible body cover affixed thereto for movement of the portion of body cover contiguous to the eye with the eye assembly. (emphasis added).

Claim 21. An artificial eye assembly for an animated plush toy operative to animate a portion of plush contiguous to the eye assembly comprising:

one or more transparent, spherical members having a convex surface and a concave surface;

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at least one three-dimensional border member partially surrounding and unitary with said one or more transparent, spherical members; and

a plush-engaging member integral with said one or more transparent, spherical members receiving the portion of the plush contiguous to the eye assembly being inserted between said three-dimensional border member and the plush-engaging member extending the plush behind said one or more transparent, spherical members and affixed thereto for movement of the plush with the eye assembly. (emphasis added).

With regard to Dependent Claim 9 and as a separate matter from the independent claims; with regard the rod feature recited in Dependent Claim 9 support is provided on page 9 and elsewhere throughout the Specification which describes the driveshaft interconnecting the two spherical bowl-shaped members 14 and further interfaces with a cam and driveline.

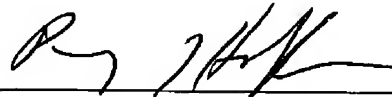
If the Examiner would like to discuss Applicant's invention prior to issuing an action, the Examiner should feel free to contact the undersigned attorney.

In view of the foregoing, Applicant has placed the case in condition for reconsideration and respectfully requests allowance of pending claims 1-16 and 18-21.

Respectfully submitted,

Dated: _____

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